

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL CASE NO. 3:21-cv-00271-MR

**THIS MATTER** is before the Court on the North Carolina Department of Public Safety's (NCDPS) sealed Notice [Doc. 25] regarding the Court's Request for Waivers of Service [see Doc. 20].

The pro se Plaintiff brought this action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Alexander Correctional Institution.<sup>1</sup> The Second Amended Complaint passed initial review on claims against Defendants Kenneth E. Gagnon,<sup>2</sup> Cameron Massagee,<sup>3</sup> FNU

<sup>1</sup> The Plaintiff is no longer incarcerated.

<sup>2</sup> “Gagnon, NCDPS Registered Nurse” in the Second Amended Complaint. [Doc. 18 at 13].

<sup>3</sup> “Masscegee, Correctional Officer” in the Complaint [Doc. 1 at 1] and “Mascgee, Correctional Officer” in the Second Amended Complaint [Doc. 18 at 2].

Stanford,<sup>4</sup> Christopher Poteat,<sup>5</sup> Brandon Bryan,<sup>6</sup> and Mickey Beaver.<sup>7</sup> [Doc. 19]. Service waivers have been filed for Defendants Beaver, Massagee, and Bryan. [Doc. 24]. NCDPS was unable to waive service for Defendants Poteat and Gagnon, who are no longer employed at NCDPS, or for Defendant Stanford, whom NCDPS was unable to locate or identify. [Doc. 25]. NCDPS has provided Defendants Poteat and Gagnon's last known addresses under seal. [Id.].

The Clerk will be directed to notify the U.S. Marshal that Defendants Poteat and Gagnon need to be served with the summons and Second Amended Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendants Poteat and Gagnon cannot be served at the addresses provided by NCDPS, the U.S. Marshal shall be responsible for locating their home addresses so they may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma pauperis* under § 1915(d), “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases”); Fed. R. Civ. P. 4(c)(3) (“At the plaintiff’s request, the court may order

---

<sup>4</sup> “Stanford, Correctional Officer” in the Second Amended Complaint. [Doc. 18 at 2].

<sup>5</sup> “Poteat, Correctional Officer” in the Second Amended Complaint. [Doc. 18 at 3].

<sup>6</sup> “Jhon Doe, Correctional Officer” in the Second Amended Complaint. [Doc. 18 at 13].

<sup>7</sup> “Beaver, Correctional Officer” in the Second Amended Complaint. [Doc. 18 at 3].

that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915....").

If the U.S. Marshal is unable to obtain service on Defendants Poteat and Gagnon, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendants' home addresses to the pro se Plaintiff, and shall file any document containing such addresses under seal.

The Plaintiff shall file a Notice within thirty (30) days of this Order providing additional information so that Defendant Stanford can be identified and served. Failure to timely comply will result in the dismissal of Defendant Stanford from this action without further notice.

The Clerk of Court will be instructed to update the Court file with the Defendants' correct names as reflected in this Order.

**IT IS THEREFORE ORDERED** that:

1. The U.S. Marshal shall use all reasonable efforts to locate and obtain service on Defendants Christopher Poteat and Kenneth Gagnon. If the U.S. Marshal is unable to obtain service on the

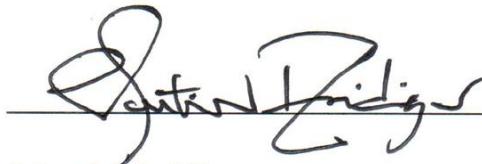
foregoing Defendants, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.

2. The Plaintiff shall file a Notice within **thirty (30) days** of this Order providing additional information so that Defendant Stanford can be identified and served. Failure to timely comply with this Order will result in the dismissal of Defendant Stanford from this action without prejudice and without further notice.

**IT IS FURTHER ORDERED** that the Clerk is respectfully instructed to mail a copy of the Second Amended Complaint [Doc. 18], the Sealed Notice [Doc. 25], and this Order to the U.S. Marshal, and to substitute Defendants' names as follows in the Court's records: Christopher Poteat for "FNU Poteat;" Kenneth Gagnon for "FNU Gagnon;" Brandon Bryan for "John Doe;" Mickey Beaver for "FNU Beaver;" and Cameron Massagee for "FNU Masscegee."

**IT IS SO ORDERED.**

Signed: May 20, 2022



---

Martin Reidinger  
Chief United States District Judge

